

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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JERALD BOITNOTT,

Case No. \_\_\_\_\_

Plaintiff,

**NOTICE OF REMOVAL**

v.

ALDI Inc. d/b/a ALDI Foods and  
806 4<sup>th</sup> Street, LLC,

Defendants.

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**NOTICE OF REMOVAL**

TO: Clerk of Court, United States District Court, District of Minnesota, 300  
South Fourth Street, Suite 202, Minneapolis, MN 55415; and Plaintiff

**PLEASE TAKE NOTICE** that Defendant ALDI Inc. d/b/a ALDI Foods (“ALDI”), pursuant to 28 U.S.C. § 1441, gives notice of removal of the above-captioned civil action from the District Court for the Fourth Judicial District for the State of Minnesota, Hennepin County to this Court. As grounds for removal, ALDI states the following:

1. On September 19, 2018, 2018, Plaintiff commenced a lawsuit against ALDI by serving ALDI with a Summons and Complaint, captioned *Jerald Boitnott v. ALDI Inc. d/b/a ALDI Foods and 806 4<sup>th</sup> Street, LLC*.<sup>1</sup> In the Complaint, Plaintiff asserts a claim

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<sup>1</sup> Upon information and belief, Defendant 806 4<sup>th</sup> Street, LLC has not been served, and, therefore its consent to removal is not required. *See* 28 U.S.C. § 1446 (emphasis added) (“When a civil action is removed solely under section 1441(a), all defendants who have been properly joined *and served* must join in or consent to the removal of the action.”).

against ALDI under the Americans with Disabilities Act, 42 U.S.C. § 12181, *et seq.* (“ADA”). A copy of the Summons and Complaint is attached as Exhibit A, which includes all process, pleadings and orders served upon ALDI to date in this action.

2. On the basis of the federal claims asserted in Plaintiff’s Complaint, ALDI removes the action to this Court.

3. “[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

4. “The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based.” 28 U.S.C. § 1446(b)(1).

5. This Court has original jurisdiction over this action under 28 USC § 1331 because Plaintiff’s ADA claim arises under a federal law.

6. Venue is proper because the United States District Court for the District of Minnesota is the federal judicial district embracing the District Court for the Fourth Judicial District, Hennepin County, Minnesota. *See* 28 U.S.C. §§ 1441(a) and 1446(a)

7. Finally, this Notice of Removal is timely because it was filed within thirty days of ALDI’s receipt of a copy of the Complaint on September 19, 2018. *See* 28 U.S.C. § 1446(b)(3).

8. After filing this Notice of Removal, ALDI will properly serve written notice of removal upon Plaintiff and will file a true and correct copy of the Complaint and Notice of Removal with the Clerk of the District Court for the Fourth Judicial District, Hennepin County, Minnesota.

9. This Notice of Removal does not waive any objections or defenses ALDI may have to claims herein.

**WHEREFORE**, ALDI hereby removes this civil action from the District Court for the Fourth Judicial District for the State of Minnesota, Hennepin County to the United States District Court for the District of Minnesota, and requests that this Court take jurisdiction over this action to the exclusion of any further proceedings in state court.

Dated: October 9, 2018

**SAPIENTIA LAW GROUP, PLLC**

s/Ryan O. Vettleson

Sonia Miller-Van Oort (#278087)

Jonathan A Strauss (#279602)

Ryan O. Vettleson (#312915)

120 South 6th Street, Suite 100

Minneapolis, MN 55402

Phone: 612-756-7100

Fax: 612-756-7101

[soniamv@sapientialaw.com](mailto:soniamv@sapientialaw.com)

[jons@sapientialaw.com](mailto:jons@sapientialaw.com)

[ryanv@sapientialaw.com](mailto:ryanv@sapientialaw.com)

**ATTORNEYS FOR DEFENDANT ALDI  
INC.**